18 April 2017

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

By online submission only

Dear Secretary

Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative

We value the opportunity to make a submission to the Senate Standing Committees on Community Affairs in relation to the above inquiry and the Department of Human Services’ Better Management of the Social Welfare System initiative.

About the HPLC

LawRight (formerly the Queensland Public Interest Law Clearing House Incorporated) is a not-for-profit, community-based legal organisation, which coordinates the provision of pro bono legal services to disadvantaged Queenslanders.

The Homeless Persons’ Legal Clinic (HPLC) was established in 2002 by LawRight to provide free legal assistance and representation to people experiencing or at risk of homelessness. Our outreach model has since expanded, and we now also coordinate the Mental Health Civil Law Clinic and the Refugee Civil Law Clinic.

LawRight has 18 outreach legal clinics in partnership with over 30 community organisations in Brisbane, Cairns, Townsville and Toowoomba. The HPLC has addressed the multiple legal needs of over 6,000 marginalised people and, by partnering with 25 private law firms, provides over $4 million worth of pro bono legal services each year.

Our clients’ circumstances

We provide legal advice to people who are homeless or at risk of homelessness, refugees experiencing disadvantage, and people with mental health concerns. Many of our clients experience several forms of disadvantage, including severe financial hardship, drug or alcohol dependency, mental illness, physical or intellectual disabilities, and complex family backgrounds.
A significant number of our clients have been the victims of violent crimes or domestic violence, or have otherwise experienced severe trauma. Thirty percent identify as having a disability. Many of our clients are unable to read or write.

Many of our clients come from a culturally diverse background or speak English as a second language. Twenty-six percent of our clients identify as Aboriginal and/or Torres Strait Islander. Twenty-three percent identify as culturally and linguistically diverse.

Most of our clients experience acute financial hardship. In the past year, while only 8% of our clients earned a wage, over 83% of our clients identified government benefits as their sole source of income. Income support payments are often insufficient to allow our clients to successfully address their complex legal and non-legal needs. We note that many income support payments are set below the poverty line.¹

Terms of reference

Given the nature of our client base, we have considerable experience in engaging with Centrelink and the Department of Human Services. The below terms of reference for this Inquiry are relevant to our experience as a pro bono legal service provider.

**A: The impact of Government automated debt collection processes upon the aged, families with young children, students, people with disability and jobseekers and any others affected by the process**

Through the HPLC, our volunteer lawyers assist a considerable number of clients who have received automated debt notices or who are otherwise struggling with debts allegedly owing to Centrelink. Our experience has been that Government automated debt collection processes can have serious immediate and long term impacts on our clients’ wellbeing.

The letters automatically issued by Centrelink to notify recipients about the existence of an alleged debt are often sent many years after the accrual of the debt. These debts can run into tens of thousands of dollars, which are insurmountable figures for many of our clients. Merely receiving such a letter can have a devastating and traumatic impact on our clients, compounding pre-existing issues, including mental health concerns, housing difficulties, and other debts.

Many disadvantaged Australians may lack the legal, technical or literacy acumen to dispute or negotiate the debt on their own. For most, legal assistance to dispute alleged Centrelink debts is increasingly out of reach. In our experience, due to their complex circumstances, many vulnerable people may not take steps to make reasonable enquiries about the legitimacy of the debt which is alleged.

The minimum Centrelink debt repayment plan is set at $20 per fortnight. In some instances, this can amount to almost all of a welfare recipient's disposable income. Accordingly, clients who depend solely on government benefits face a significant reduction of income, as they are pushed further below the poverty line.

**Case study**

We first met Joanna* at a specialist homelessness agency in early August 2016. Joanna had left home at age 14 to escape her mother's abuse. After spending a year at her aunt's house, she was kicked out onto the streets, where she slept rough and couch surfed for a number of years. During this time, Joanna experienced a number of mental health issues and became addicted to a variety of illicit drugs. At 18, Joanna gained casual employment, but due to her mental health issues and homelessness, she did not report this income to Centrelink. She continued to take up part time and casual work over the next few years.

Eventually, Joanna was placed on a mental health plan, started seeing counsellors and began to feel like her life was getting back on track. But when Joanna was 26, she received a letter from Centrelink. Joanna told us that when she received the letter: “It just blew my mind. I cried. It was the first letter of a few. It said they were reviewing the payments. I can't remember the amount, but there were a few more that came up, and I thought – my life is ruined now. I'm going to be forever paying this back. I already had pressure and anxiety and it made me want to jump in a hole. It just made me feel like paying it back was never going to happen.” The alleged debt totalled nearly $20,000. Joanna entered into a $20 per fortnight payment plan, meaning that it will take Joanna more than 38 years to pay off the debt.

In January 2017, Joanna gave birth to her first child and is now on a single parent's allowance. Joanna told us she recently received another letter from Centrelink which advised her that they were going to review her entitlements. A redacted copy of this letter is attached at Appendix A.

“When I read that letter, because I was seeing stuff in the news about Centrelink, I was petrified. I thought they would ask for a lump sum payment, even though paying off $20 per fortnight is already too much. It will already take me years to pay off the debt. So I put the letter away, and with my new baby, I haven't really had time to look at what I can do. I am scared that they're going to cancel my payments until it's paid in full or I make a lump sum payment. I just can't do that.”

Joanna continued, “The thought in my head is that I’m a single mum, I have no support from family or friends. I’m going to be stuck in public housing for a long time. I can't do much until my kid goes to school. Where I live, I'm surrounded by drug addicts and domestic violence. With this debt, I feel like I'm not going to be able to improve my life whatsoever.”

* Names have been changed
B: The administration and management of customers’ records by Centrelink, including provision of information by Centrelink to customers receiving multiple payments

Through our interactions with Centrelink on behalf of our clients, we have observed repeated failings in the administration and management of customer records and the provision of information by Centrelink. Our clients and volunteer lawyers experience considerable difficulties in attempting to engage with Centrelink in relation to alleged debts.

Centrelink regularly withholds records and information about our clients’ alleged debts, which can create considerable barriers to resolving our clients’ legal issues.

When assisting a client with a debt matter, our usual process is to write to the creditor requesting copies of any documentation relating to the debt. This allows us to review all relevant information about the debt so as to fully advise the client about their options.

As Centrelink has no email portal, our information requests to Centrelink are sent by fax. Typically, we receive no response from Centrelink. As such, in order to obtain information, we generally follow up our written correspondence with a phone call to Centrelink to directly ask an operative to send the relevant information to us by mail. In one case, after not receiving requested documentation from Centrelink for an extended period of time, our volunteer lawyers resorted to obtaining the information through a Freedom of Information request.

Without information about a client’s debt, we are unable to fully advise the client about their options and pathways for resolving the debt. Importantly, without information about how or why the alleged debt accrued, we are also unable to confirm the legitimacy of the debt itself.

When Centrelink does provide information about an alleged debt to our volunteer lawyers or clients, the correspondence is often confusing, incomplete and/or incomprehensible.

Case study

We connected with Susan* through our outreach phone clinic in August 2015. Susan uses a wheelchair and her sole source of income is the Centrelink Disability Support Pension. While working at a disability organisation, she had an accident at work and received workers’ compensation for a period of time. Susan told us that she reported her earnings and all workers’ compensation payments to Centrelink during this period. However, after Susan’s employment was terminated in mid-2010, Centrelink contacted her to say she had failed to report her earnings properly and that she owed Centrelink a debt of over $4,000.

In June 2016, we sent a fax to Centrelink requesting copies of documents relating to the debt. We received no response from Centrelink for several months. Finally, in
November 2016, Centrelink responded to our fax by providing us with a letter attached at Appendix B. This letter provided a debt schedule report showing the amount paid to our client and the amount of the payment that was allegedly overpaid.

Around this time, our client received a further letter which is attached at Appendix C. As shown in this letter, Centrelink wrote to “discuss the effect” a compensation payment had on Susan’s income support payments. The letter provided that she was “eligible” for back payments of “periodic compensation”, but then the letter stated that, as she received Centrelink income support payments, she actually owed Centrelink money.

Our volunteer lawyers attempted to reconcile the dates on the two letters provided by Centrelink but were unable to determine the meaning of the back payments or the origin of the debts. Our volunteer lawyers expressed concern that if they were unable to understand Centrelink’s correspondence, our clients were likely to be even more confused.

We understand that clients are able to obtain documents relating to their alleged debt by logging onto the MyGov website. However, the majority of our clients do not have regular internet or computer access and many do not have the technical, literacy or computer skills necessary to create or navigate a MyGov account.

As an enforceable legal document, our standard written client authority is widely accepted by other third parties, including other government agencies. However, in our experience, Centrelink will refuse to interact with a client’s legal representative unless Centrelink’s own authority form has been executed by the client and faxed to Centrelink. This can lead to difficulties where our volunteer lawyers have already obtained a standard written authority from the client. Due to our clients’ circumstances, it is often very challenging to arrange for them to return to one of our drop-in clinics to sign additional documentation for the sole purpose of accommodating Centrelink’s internal procedural requirements.

We have also experienced problems resolving Centrelink debts in situations where the Public Trustee is involved in managing our client’s affairs. As more than a quarter of our clients suffer from a mental health condition, the Public Trustee has been appointed as administrator for many of our clients’ financial affairs. In one recent case, Centrelink refused to discuss a mentally ill client’s $47,000 debt with us because the Public Trustee was a nominee on the client’s account. Our volunteer lawyers were told that Centrelink required a letter from the Public Trustee giving LawRight authority to discuss the client’s alleged debt. When we then provided a letter from the Public Trustee authorising us to discuss the debt, Centrelink told us that the Public Trustee was not able to delegate authority to us and that there was only room for one nominee, which was the Public Trustee. Because of this, Centrelink informed us that we could not take any steps to change or amend the debt or how it was managed by Centrelink. In our view, Centrelink’s refusal to acknowledge our involvement was a clear deprivation of the client’s right to legal representation in respect of their alleged debt.
C: The capacity of the Department of Human Services and Centrelink services, including online, IT, telephone services and service centres to cope with levels of demand related to the implementation of the program

The consensus among our volunteer lawyers is that Centrelink is unable to deal with the volume of calls received. According to one of our volunteer lawyers, “They take forever to respond to you. You are on the phone for hours, literally hours, before even getting to an automated line. Sometimes I have called and it disconnects the call before I have even spoken to someone”. When asked about their experiences engaging with Centrelink, all of the volunteer lawyers we spoke with commented about the significant call waiting times. Several volunteer lawyers referred to the time spent on the phone as “hours”.

Our volunteer lawyers have also expressed frustration with their limited options for corresponding with Centrelink: “The way to deal with creditors generally is to email or call. But because of the time wasted on the phone with Centrelink, we try to work around ways to not call them. But Centrelink don’t have an email system, and they don’t seem to respond to faxes. We don’t have time to go to a service centre, and it wouldn’t be possible anyway because we wouldn’t have the client with us. So essentially, it’s very difficult to deal with them.” Another lawyer added, “On a number of instances I’ve called phone numbers which were provided as a specific contact point and the line has been disconnected”.

Our clients share the same view of Centrelink’s online and telephone services. “They are useless,” one client told us. “Every time I call them, it’s in excess of an hour waiting time, and even then I get disconnected, so if you do get through, they put you on hold, and sometimes they don’t come back to your call. I’m on pre-paid; it’s not feasible for me to be on the phone that long. I’ve gone in after trying to call and all you get told is to call again”.

In relation to the Centrelink website, one client told us, “There is always so much maintenance and the website always freezes – more often than not. Every time I go on myGov something seems to be going wrong. And the app also stuffs up.”

K: any other related matters

The anticipated funding cuts by the Federal Government on community legal centres, including LawRight, will have a substantial impact on our ability to assist clients with Centrelink debts. We understand that Basic Rights Queensland, a specialist provider of social security law advice, will also be affected by these funding cuts. This means that clients will have less recourse to legal assistance and advice when trying to resolve their alleged Centrelink debts.
Conclusion

In our experience, Centrelink’s debt collection process is having a severe impact on Australia’s most marginalised and vulnerable people. In our view, there are systemic problems with Centrelink’s administration and management of customer records. Centrelink have also created multiple barriers to communication and engagement for those seeking to resolve Centrelink debts.

If you have any questions about this submission or require further information, please do not hesitate to contact Paula Hughes or Fiona Thatcher of our Homeless Persons’ Legal Clinic.

Yours faithfully

Stephen Grace
Coordinator
Homeless Persons’ Legal Clinic
27 March 2017

Dear [Name],

Your Centrelink Debt - Information about your repayments

As part of the 2010—2011 Budget, the Australian Government announced that customers with a Centrelink debt repayment arrangement below the standard rate will be reviewed regularly to assess their ability to make higher repayments.

The standard repayment rate for Centrelink debts is 15 per cent of your payment. If you have other income, such as earnings from employment or investments, the repayment rate can be higher than 15 per cent as it is calculated using a sliding scale based on your income.

Your current repayment arrangement is below the standard rate and was reduced for a set time to allow you to reorganise your finances. From 16 April 2017 the standard rate will automatically be deducted from your payment.

Our records show that the amount owing of your Centrelink debt is $[Amount]. You can view the amount you owe and your payment details online through the myGov website. Go to my.gov.au and sign in to your account to access Centrelink services, then select 'Money you owe'. If you do not have a myGov account, you will need to create one first and then link it to Centrelink. You can also receive your Centrelink letters online through your myGov account.

You are not expected to repay more than you can afford. If you contact us to discuss your repayment arrangement, we will ask you information about your current financial situation.

Information you should know
If you have any questions or would like more information, please call us on the number shown in the Contact information section.

Yours sincerely,

Nathan Mc Nulty
Manager

Contact information

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Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative

Submission 112

Privacy and your personal information
Your personal information is protected by law, including the Privacy Act 1988, and is collected by the Australian Government Department of Human Services for the assessment and administration of payments and services. This information is required to process your application or claim.

Your information may be used by the department or given to other parties for the purposes of research, investigation or where you have agreed or it is required or authorised by law.

You can get more information about the way in which the Department of Human Services will manage your personal information, including our privacy policy at humanservices.gov.au/privacy or by requesting a copy from the department.

To make a complaint or give us feedback
We aim to resolve your concerns as quickly as possible. If you want to make a complaint or give us feedback you can:
- call our feedback and complaints line on 1800 132 468, or
- go to humanservices.gov.au/feedback for other options.

If we are not able to resolve your complaint to your satisfaction, you can contact the Commonwealth Ombudsman by going to their website ombudsman.gov.au or calling them on 1300 362 072.
10 November 2016

This letter provides information about [redacted] for whom you are the nominee.

Dear [redacted],

I refer to your request on behalf of customer [redacted] and your recent conversation with a Department of Human Services delegate for access to documents relating to [redacted].

You have requested access to copies of:

- any documents in DHS possession that relate to [redacted] outstanding debt, including a complete and current statement of account.

Please find attached copies of the requested documents.

- ADEX debt schedule report and overpayment advice.

- A record of the repayment history from [redacted] May 2016 to [redacted] October 2016, where recovery at the rate of $20.00 per fortnight was deducted from [redacted] Disability Support Pension with a balance outstanding of $[redacted].

The requested information has been released in line with the department's administrative access arrangement and a record of the request has been noted on [redacted] file.

This is an Information notice given under social security law.

More information
For more information, please go to humanservices.gov.au or call us on the number shown at the top of this letter.

Yours sincerely,

[redacted]
M. A. Lagdameo
Customer Service Adviser
Department of Human Services
Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative.

Submission 112

If you do not agree with a decision we have made
• Contact us so we can check the details and explain the decision.
• Contact us and ask for a review of the decision. We will change it if it is wrong.
• Contact the Administrative Appeals Tribunal (AAT) if you do not agree with the review officer’s decision.
• If you do not agree with the decision of the AAT you may be able to appeal further. For more information about the AAT, please go to aat.gov.au

All of the above are free of charge.

If you do not agree with a decision we have made, contact us as soon as possible. It is important to ask for a review within 14 days of being notified about the decision. If your request for a review is more than 14 days after being notified and the decision can be changed, you may only receive your entitlement from the date you requested the review.

There is no time limit for a review of a decision about money you owe us. However you may have to pay back the money while the decision is being reviewed.

To make a complaint or give us feedback
We aim to resolve your concerns as quickly as possible. If you want to make a complaint or give us feedback you can:
• call our feedback and complaints line on 1300 362 072
• go to humanservices.gov.au/feedback for other options.

If we are not able to resolve your complaint to your satisfaction, you can contact the Commonwealth Ombudsman by going to their website ombudsman.gov.au or calling them on 1300 362 072.
Repayment of compensation debt

Dear [Name]

Compensation reference: [Reference]

Incident date: [Date]

We are writing to you about the effect your compensation payment has on your Centrelink income support payments.

We have been advised you are eligible for a back payment of periodic compensation of $[Amount] for the period [Start Date] to [End Date]. As you received Centrelink income support payments during this period, we have calculated you will have to pay back $[Amount].

We have been advised you are eligible for a back payment of periodic compensation of $[Amount] for the period [Start Date] to [End Date]. As you received Centrelink income support payments during this period, we have calculated you will have to pay back $[Amount].

We have been advised you are eligible for a back payment of periodic compensation of $[Amount] for the period [Start Date] to [End Date]. As you received Centrelink income support payments during this period, we have calculated you will have to pay back $[Amount].

We have been advised you are eligible for a back payment of periodic compensation of $[Amount] for the period [Start Date] to [End Date]. As you received Centrelink income support payments during this period, we have calculated you will have to pay back $[Amount].

Your payments will be reduced as a result of the periodic compensation payments paid to you.

More information about how compensation affects your Centrelink income support payments is on the back of this letter.

What you need to do
You need to repay the amount of $[Amount] within 28 days of the date you receive this letter.